

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 11-223—sSB 361**

*Labor and Public Employees Committee*

*Appropriations Committee*

**AN ACT PREVENTING THE USE OF CREDIT SCORES BY CERTAIN  
EMPLOYERS IN HIRING DECISIONS**

**SUMMARY:** This act prohibits employers and their agents, representatives, or designees from requiring an employee's or prospective employee's consent to a request for a credit report as a condition of employment. The prohibition does not apply when the:

1. employer is a financial institution,
2. employer reasonably believes the employee committed a violation of the law related to the employee's job,
3. report is required by law, or
4. report is substantially related to the employee's current or potential job or the employer has a bona fide reason to request or use information in the report that is substantially job-related and is disclosed to the employee or applicant in writing.

The act allows an employee or prospective employee to file a complaint about a violation of the act with the labor commissioner. The commissioner must conduct an investigation and make findings within 30 days. If the findings warrant, the commissioner must hold a hearing. Violators face a \$300 civil penalty for each violation. At the request of the labor commissioner, the attorney general must initiate a civil lawsuit to recover the penalties. Any amount recovered goes to the General Fund.

EFFECTIVE DATE: October 1, 2011

**CREDIT REPORT**

Under the act, a credit report contains information about the employee's credit score, credit account balances, payment history, or savings or checking account numbers and balances.

**EMPLOYERS**

The act applies to any employer engaged in business with at least one employee, including the state or a political subdivision. But the act does not apply to financial institutions, which it defines as an entity or affiliate of a state bank and trust company; national banking association; state or federally chartered savings bank, savings and loan association, or credit union; insurance company; investment advisor; broker-dealer; or entity registered with the federal Securities and Exchange Commission.

SUBSTANTIALLY RELATED

Under the act, information in a credit report is “substantially related to the employee’s current or potential job” when the position:

1. is a managerial position that involves setting the direction or control of a business, division, unit, or agency of a business;
2. involves access to customers’, employees’, or the employer’s personal or financial information other than customary retail transaction information;
3. involves a fiduciary responsibility to the employer, including authority to make payments, collect debts, transfer money, or enter into contracts;
4. provides an expense account or corporate debit or credit card;
5. provides access to confidential or proprietary business information;
6. provides access to information (such as a formula, pattern, compilation, program, device, method, technique, process, or trade secret) which has actual or potential independent economic value because it is not generally known or readily ascertainable by proper means by others who could obtain economic value from the information and there are reasonable efforts under the circumstances to keep the information secret; or
7. involves access to the employer’s nonfinancial assets of at least \$2,005 in value, including museum and library collections and prescription drugs and pharmaceuticals.

BACKGROUND

*Federal Fair Credit Reporting Act (FCRA)*

FCRA contains a number of requirements regarding the accuracy, fairness, and privacy of information in the files of consumer reporting agencies (CRA). It allows CRAs to issue “consumer reports” in a number of circumstances, but contains special provisions for situations where the consumer or prospective employee does not initiate the transaction (i.e., for employment background screening). Among other things, FCRA prohibits an agency from furnishing a consumer report, which may include credit information, about a job candidate or employee without getting the person’s permission. If the employer or prospective employer decides to use information in the consumer report to deny a job application, refuse to promote an employee, or take any other “adverse action,” the employer must give the job candidate or employee a copy of the consumer report and a summary of the person’s rights under FCRA before taking the action.

OLR Tracking: CR:RP:PF:df